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**Fax:** (571) 273-0836 **Pages:** 7 including cover page  
**Phone:** (571) 272-0836 **Date:** March 24, 2004  
**Re:** Our Reference: ; Your Reference: **USSN 09/922,405**

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*Deborah A. Dugan*  
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Group Art Unit: 1642  
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Group Art Unit: 1642  
Examiner: Stephen L. Rawlings

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Charles A. NICOLETTE

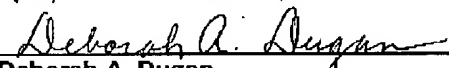
Serial No.: 09/922,405

Filed: August 3, 2001

For: THERAPEUTIC ANTI-MELANOMA  
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## Response to Restriction Requirement/ Species Election under 35 U.S.C. 121

This communication is being filed in response to a Restriction Requirement mailed February 5, 2004. A response to this Restriction Requirement is due on March 5, 2004. Accordingly, this response is timely filed.

Remarks:

Claims 1-9 are pending in the subject application and are subject to a restriction requirement and species election.

In re: Nicolette  
USSN: 09/922,405  
Filed: August 3, 2001  
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### Requirement for Restriction under 35 U.S.C. 121

In the February 5, 2004 Office Action, the Office required restriction under 35 U.S.C. § 121 to one of the following allegedly independent and distinct inventions:

- Group I      Claims 1-3, drawn to compositions comprising immunogenic ligands, classified in class 424, subclass 185.1.
- Group II     Claims 4-8, drawn to host cells comprising immunogenic ligands, classified in class 435, subclass 325.
- Group III    Claim 9, drawn to a method of inducing an immune response, classified in class 424, subclass 185.1.

Applicant's undersigned attorney hereby elects, with traverse, the invention of Group I, claims 1-3.

### Species Election Requirement under 35 U.S.C. 121

The Office further required Applicant to specifically elect "**at least two species**"<sup>1</sup> from the Markush group, which will be considered for prosecution on the merits.

- a)      SEQ ID NO: 3;
- b)      SEQ ID NO: 5;
- c)      SEQ ID NO: 7;
- d)      SEQ ID NO: 9;
- e)      SEQ ID NO: 11;
- f)      SEQ ID NO: 13;
- g)      SEQ ID NO: 15;
- h)      SEQ ID NO: 17;
- i)      SEQ ID NO: 19;
- j)      SEQ ID NO: 21;
- k)      SEQ ID NO: 23; and
- l)      SEQ ID NO: 25.

<sup>1</sup> See February 5, 2004 Office Action, page 4, paragraph 2: *Applicant is required under 35 U.S.C. 121 to specifically elect at least two species of peptide ligand from the Markush group . . . (emphasis added).*

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USSN: 09/922,405  
Filed: August 3, 2001  
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In order to respond to the instant species election requirement, Applicant respectfully requests clarification of what is meant by the Office's instruction to elect "**at least two**" of the above-listed species. As used in the Office Action (and in the claims), "at least", is understood (and defined) to mean: *at the minimum; not less than; at the lowest, smallest amount; etc.*<sup>2</sup> What scope is intended by the aforementioned instruction? Does "**at least two**" mean 2, 2 or more, 3, 4, 5, 6, 7, 8, 9, 10, 11, or 12 species, or any or all of the aforementioned? Accordingly, clarification is respectfully requested.

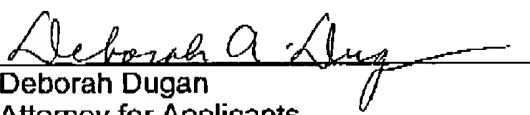
Pending receipt of the above-requested clarification, the instant communication is responsive to the February 5, 2004 Requirement for Restriction.

#### CONCLUSION

No fee is deemed necessary in connection with the filing of this communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 07-1074.

Respectfully submitted,

March 5, 2004  
Date

  
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<sup>2</sup> See, e.g., The Meriam-Webster Dictionary; The American Heritage Dictionary of the English Language 4<sup>th</sup> Ed.; The Random House Dictionary of the English Language 2<sup>nd</sup> Ed. Unabridged.